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TRANSMITTAL FORM

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Total Number of Pages in This Submission: 32

Application Number	09/334,978
Filing Date	June 17, 1999
First Named Inventor	Webber, et al.
Art Unit	3626
Examiner Name	N. Pass
Attorney Docket Number	CIS1365-012C

ENCLOSURES (Check all that apply)

- [X] Fee Transmittal Form
  - [X] Fee Attached
- [ ] Amendment/Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Reply to Missing Parts/ Incomplete Application
  - [ ] Reply to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation
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- [ ] Terminal Disclaimer
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  - [ ] Landscape Table on CID
- [ ] After Allowance Communication to TC
- [ ] Appeal Communication to Board of Appeals and Interferences
- [X] Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- [ ] Proprietary Information
- [ ] Status Letter
- [ ] Other Enclosure(s) (please identify below):

Remarks

Also enclosed are an Appeal Brief, a check and a postcard.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Standley Law Group LLP		
Signature	Carol G. Stovsky		
Printed name	Carol G. Stovsky		
Date	November 30, 2005	Reg. No.	42,171

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Signature	Trisha M. Beachy-Bryant		
Typed or printed name	Trisha M. Beachy-Bryant, Paralegal	Date	November 30, 2005

This collection of Information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application, Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer U S Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandra, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents,** P.O. Box 1460, Alexandria, VA 22313-1450.

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FEE TRANSMITTAL
For FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT | $ 500.00

Complete if Known	
Application Number	09/334,978
Filing Date	June 17, 1999
First Named Inventor	Webber, et al.
Examiner Name	N. Pass
Art Unit	3626
Attorney Docket No.	CIS1365-012C

METHOD OF PAYMENT (check all that apply)

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee M	FILING FEES Small Entity Fee M	SEARCH FEES Fee M	SEARCH FEES Small Entity Fee M	EXAMINATION FEES Fee M	EXAMINATION FEES Small Entity Fee M	Fees Paid M
utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 20 or HIP =	_____ x	_____ =	_____

HIP = highest number of total claims paid for, if greater than 20

Indep. Claims	Extra Claims	Fee ($)	Fee Paid M
_____ - 3 or HP =	_____ x	_____ =	_____

HP = highest number of independent claims paid for, if greater than 3

Multiple Dependent Claims Fee ($)	Fee Paid ($)
_____	_____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof Fee W	Fee Paid M
_____ -100=	_____	I 50 = _____ (round up to a whole number) x _____	_____

4. OTHER FEE(S)

	Fees Paid M
Non-English Specification, $130 fee (no small entity discount)	
Other: Appeal Brief fee required by 37 CFR 41.37(a)(2)	$500.00

SUBMITTED BY

Signature	Carol G. Stovsky	Registration No. (Attorney/Agent) 42,171	Telephone 614-792-5555
Name (Print/Type)	Carol G. Stovsky		Date November 30, 2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appeal No._____

Application Serial No.:	09/334,978	Group Art Unit:	3626
Priority Filing Date:	Nov. 10, 1994	Examiner:	N. Pass
Application Filing Date:	June 17, 1999	Inventor:	Webber, et al.
Application Title:	SYSTEM FOR REAL TIME SHOPPING	Docket No.:	CIS1365-012C

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8 (A)

Date of Deposit: November 30, 2005

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Trisha Beachy-Bryant

Sir:

In response to the Final Office Action dated May 31, 2005, Applicant submits this Appeal Brief in accordance with 37 C.F.R. § 41.37. The Notice of Appeal was filed on September 30, 2005.

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Attorneys for Applicant-Patent Owner

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I. REAL PARTY IN INTEREST – 37 C.F.R. § 41.37(C)(1)(I)

The present application, naming John C. Webber and Gregory S. Gerard as inventors, is assigned to America Online, Inc., the real party in interest in the present appeal.

II. RELATED APPEALS AND INTERFERENCES – 37 C.F.R. § 41.37(C)(1)(II)

There are no related appeals or interferences that may impact the Board's decision in the pending appeal.

III. STATUS OF CLAIMS – 37 C.F.R. § 41.37(C)(1)(III)

Claims 1-9, 11, and 13-26 are pending. Claims 1-9, 11, and 13-26 are rejected. Claims 11 and 13-26 are appealed. Claims 1-9 are canceled herein. Claims 10 and 12 were canceled in prior amendments.

IV. STATUS OF AMENDMENTS- 37 C.F.R. § 41.37(C)(1)(IV)

Per the advisory action mailed September 8, 2005, the amendment filed August 16, 2005 has not been entered as it allegedly raises new issues that would require further consideration and/or search and it does not place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

V. SUMMARY OF CLAIMED SUBJECT MATTER - 37 C.F.R. § 41.37(C)(1)(V)

A. Invention Features

The present invention allows a user of a personal computer to access through a computer network in real-time information regarding products and services from multiple merchants. The computer network collects product or service information from various sources, such as gift stores, clothiers, computer dealers, etc. and formats the information in a recognizable manner to enable the information to be viewed by a user at the user's personal computer and to compare the information from the merchants. The network performs a single search from a single search command entered by the user. When merchants update the computer network product and service information related to the user's search parameters, the computer network transmits the updated product or service information to the user's computer screen. The product information as well as the updates to the product information are assimilated for display at the user's computer so that the most current information about the product is displayed. The user can compare the information from the various merchants using a single search and be assured of reviewing the most current information available from each merchant.

B. Independent Claims Appealed

Claim 11 recites a method for electronic shopping (p. 3, ll. 10-24). The method includes the steps of:

- transmitting product information and updates to product information from a first merchant computer to a network host computer using a first type of

network connectivity (p. 3, l. 23 to p. 4, l. 3; p. 6, ll. 16-21; p. 4, ll. 21-23; p. 6, l. 23 to p. 7, l. 5; p. 7, ll. 16 to p. 8, l. 4);

- transmitting product information and updates to product information from a second merchant computer to the network host computer using a second type of network connectivity (p. 3, l. 23 to p. 4, l. 3; p. 6, ll. 16-21; p. 4, ll. 21-23; p. 6, l. 23 to p. 7, l. 5 ; p. 7, ll. 16 to p. 8, l. 4);
- storing the product information in a database (p. 4, l. 24 to p. 5, l. 1; p. 5, ll. 7-9; p. 6, ll. 3-5);
- establishing a network connection between a customer computer and the network host computer to display information received from said network host computer (p. 5, l. 21 to p. 6, l. 1; p. 6, ll.10-11; p. 7, ll. 12-14 ; p. 8, ll. 17-21);
- receiving a search request from the customer computer for searching the database and selecting product information (p. 6, ll. 10-14; p. 8, l. 22 to p. 9, l. 7);
- searching the database to select product information relevant to the search request (p. 7, ll. 6-7; p. 8, ll. 7-12);
- assimilating the product information for display in one presentation at the customer computer to distinguish the product information from the first and second merchant computers (p. 3, ll. 17-21; p. 5, ll. 9-14; p. 7, ll. 6-7; p. 8, ll. 9-16);
- transmitting the assimilated product information to the customer computer (p. 3, 19-21; p. 6, ll. 10-11; p. 8, ll. 19-21; p. 9, ll. 9-12);

- displaying the assimilated product information at the customer computer (p. 3, ll. 19-22; p. 8, ll. 12-14; p. 9. ll. 15-17);
- determining whether updates to the product information have been received at the network host computer (p. 3, ll. 10-14; p. 9, ll. 12-15);
- searching the database with the search parameter to select updated product information (p. 3, ll. 12-14; p. 9, ll. 12-15);
- assimilating the updated product information (p. 3, ll. 17-19; p. 5. ll. 9-16; p. 8, ll. 9-12);
- transmitting the updated assimilated product information to the customer computer (p. 3, ll. 19-21;p. 5, ll. 11-14); and
- displaying the updated assimilated product information at the customer computer (p. 3, ll. 14-16; p. 3, ll. 16-20; p. 8. ll. 12-16; p. 9, ll. 13-18).

Claim 18 recites a method for obtaining real time product information (p. 3, ll. 10-24). The method includes the steps of:

- establishing a first network connection between a first merchant computer and a network host computer (p. 3, ll. 15-17; p. 3, l. 23 to p. 4, l. 2; p. 4, ll. 21-22; p. 5, ll. 4-7; p. 7, .l. 6-12; p. 8, l. 19-23);
- transmitting product information from the first merchant computer to the network host computer (p. 3, l. 23 to p. 4, l. 2; p. 4, l. 23 to p. 5, l. 3; p. 6, ll. 16-21; p. 7, ll. 10-11);

- establishing a second network connection between a second merchant computer and the network host computer (p. 3, ll. 15-17; p. 3, l. 23 to p. 4, l. 2; p. 4, ll. 21-22; p. 5, ll. 4-7; p. 7, .l. 6-12; p. 8, l. 19-23);
- transmitting product information from the second merchant computer to the network host computer (p. 3, l. 23 to p. 4, l. 2; p. 4, l. 23 to p. 5, l. 3; p. 6, ll. 16-21; p. 7, ll. 10-11);
- storing the product information in a database (p. 4, l. 24 to p. 5, l. 1; p. 5, ll. 7-9; p. 6, ll. 3-5);
- establishing a connection between the network host computer and a customer computer (p. 5, l. 21 to p. 6, l. 1; p. 6, ll.10-11; p. 7, ll. 12-14; p. 8, ll. 17-21);
- receiving from the customer computer a search request for product information (p. 6, lines 10-14; p. 8, l. 22 to p. 9, l. 7);
- searching the database to select product information relevant to the search request (p. 7, ll. 6-7; p. 8, ll. 7-12);
- assimilating the product information to distinguish the product information from the first and second merchant computers (p. 3, ll. 17-21; p. 5, ll. 9-14; p. 7, ll. 6-7; p. 8, ll. 9-16);
- transmitting the assimilated product information to the customer computer (p. 3, 19-21; p. 6, ll. 10-11; p. 8, ll. 19-21; p. 9, ll. 9-12);
- displaying the assimilated product information at the customer computer (p. 3, ll. 19-22; p. 8, ll. 12-14; p. 9. ll. 15-17); and

- transmitting updates to the assimilated product information at the customer computer wherein continuous updates are assimilated and transmitted if:
    1) the customer computer has requested continuous updates to assimilated product information; and
    2) the network host computer determines that the first merchant computer or the second merchant computer has transmitted updates to said product information in the database related to the search request for product information (p. 5, ll. 14-20; p. 8, ll. 17-21; p. 9, ll. 12-13; p. 9, ll. 7-9).

Claim 21 recites a real time shopping system (p. 3, ll. 10-24). The system includes:

- product information from a plurality of merchant computers (p. 3, ll. 15-17; p. 4, ll. 21-23);
- a plurality of network connections between the plurality of merchant computers and a host computer for uploading product information to the host computer (p. 3, ll. 15-17; p. 4, l. 24 to p. 5, l. 5);
- a database for storing the product information from the merchant computers (p. 4, l. 24 to p. 5, l. 1; p. 5, ll. 7-9; p. 6, ll. 3-5);
- a customer computer connected to the host computer for transmitting at least one search parameter for selecting product information in the database (p. 5, ll. 23 to p. 6, l. 1; p. 6, ll. 10-11; p. 7, ll. 12-14; p. 8, l. 24 to p. 9, l. 1; p. 6, ll. 12-14; p. 9, ll. 1-2);

- a computer program at the host computer for searching the database and assimilating product information relevant to the search parameter for display in one presentation distinguishing the product information from the first and second merchant computers (p. 7, ll. 6-7; p. 8, ll. 7-12; p. 3, ll. 17-21; p. 5, ll. 9-14; p. 7, ll. 6-7 ;p. 8, ll. 9-16);
- wherein the host computer 1) transmits to the customer computer assimilated product information selected according to the search parameter and 2) transmits to the customer computer continuous updates to the assimilated product information if the customer computer has requested continuous updates to assimilated product information and the host computer determines that at least one of the merchant computers has transmitted an update to product information in the database (p. 9, ll. 11-12; p. 5, ll. 14-16; p. 9, ll. 11-15 ; p. 9, ll. 7-9); and
- a display at the customer computer for presenting the assimilated product information and the updates to the assimilated product information (p. 3, ll. 19-21; p. 5, ll. 16-20; p. 8, ll. 6-8; p. 9, ll. 15-18).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL- 37 C.F.R. § 41.37(C)(1)(VI)

Whether claims 11, 13, 18-19, 21 and 26 are properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Suzuki (U.S. Patent No. 5,715,448) in view of Shavit (U.S. Patent No. 4,799,156), King (U.S. Patent No. 5,319,542), and further in view of Hill (U.S. Patent No. 5,528,490)?

VII. ARGUMENT- 37 C.F.R. § 41.37(C)(1)(VII)

Applicant argues the patentability of independent claims 11, 18, and 21 and has grouped the arguments based upon the Final Office Action of May 31, 2005.

The Final Office Action rejects claims 11, 13, 18-19, 21 and 26 under 35 U.S.C. § 103(a) as being unpatentable over Suzuki (U.S. Patent No. 5,715,448) in view of Shavit (U.S. Patent No. 4,799,156), King (U.S. Patent No. 5,319,542), and further in view of Hill (U.S. Patent No. 5,528,490).

Applicant respectfully traverses the rejections and hereby appeals the rejections. It is respectfully submitted the Suzuki reference fails to teach or suggest transmission of updates to product information as asserted in the Final Office Action. Furthermore, the Shavit reference fails to teach or suggest selecting updated product information from a database or continuous updates to product information. Finally, the Hill reference does not provide the teachings asserted in the Final Office and in fact, teaches away from the present invention. Therefore, the Hill reference cannot properly be combined with the other references to support the claim rejections.

All claim limitations must be taught or suggested by the prior art. CFMT, Inc. v. Yieldup Int'l Corp., 349 F.3d 1333, 1342 (Fed. Cir. 2003) (referring to In re Gulack, 703 F.2d 1381, 1385 n.9 (Fed. Cir. 1983) and In re Royka, 490 F.2d 981, 985 (CCPA 1974)). Using the claims as a template and treating each reference as teaching one or more specific components is not permitted. Interconnect Planning Corp. v. Feil, 774 F.2d 1132, 1139 (Fed. Cir. 1985). The claimed invention as well as the references must be evaluated as a whole so that their teachings are applied in the context of their significance to one of skill in the art. Id. at 1143. Furthermore, if it is asserted that a

selective combination of references renders an invention obvious, there must be a reason for the combination other than hindsight provided by the claims. Id.

The Final Office Action fails to consider complete claim elements. Instead, individual phrases within each claim element are considered and a portion of a prior art reference that is asserted to relate to the phrase is cited to support the rejection. The Examiner asserts that claim phrases not addressed in the Final Office Action were addressed in earlier Office Actions. The Examiner then asserts that the combination of asserted teachings as each relates to a claim phrase renders the present invention obvious.

It is respectfully submitted the prior art references relied upon to reject the claims of the application do not provide or suggest the teachings asserted in the Final Office Action as they relate to the claimed invention as a whole and therefore, cannot support the rejection of the claims. Furthermore, the approach of applying the prior art to individual claim phrases to support the claim rejections is improper under Interconnect Planning. Neither the claimed invention nor the references have been evaluated as a whole. Finally, the Final Office Action does provide a proper foundation for combining the references as required by Interconnect Planning.

Suzuki Fails to Teach or Suggest "Transmitting Updates to Product Information"

Several passages of the Suzuki reference are cited to support the assertion that Suzuki teaches transmitting updates to product information. It is clear from the specification of the present application that "transmitting updates to product information" refers to transmitting new information about the same product or products that the user

searched previously. It is respectfully submitted the cited passages do not provide the asserted teachings.

Fig. 9, item S12 appears in flowchart. Col. 8, lines 59-64 describes a "retrieval mode" operation that appears as item S12 of the flowchart in Fig. 9. The figure and cited passage describe a "retrieval mode" operation in which a host computer retrieves information from a database in response to a request from a merchant user and returns the requested information to the user. The information flows from the host computer to the merchant user at the merchant user's request. A passage related to a transmission of information from one computer to another does not teach transmitting updates to product information. There is no teaching or even a suggestion in this passage that any particular type of information is transmitted and more importantly, that updated product information is transmitted. Prior art teachings related generally to the transmission of product information from one computer to another computer do not relate transmissions of updated product information.

Col. 5, lines 31-32 states "sales result of self-company: a transaction result counted at real time." This passage states nothing more than transaction data resulting from a sale may be recorded in a point of sale terminal. It is respectfully submitted this passage does not relate in any way to updates to product information. More importantly, it does not teach updates to product information transmitted from a merchant computer to a host computer which is what the claim requires.

Col. 9, lines 1-6 states that "[a]t the time of retrieval, goods data of the textile, which satisfies the retrieval condition, business transaction data (by which the state of sales can be confirmed), and the image of the textile as required can be seen through

the terminal 12 of the apparel manufacturer 10 and the terminal 22 of the textile company 20." This passage further explains the "retrieval mode" operation and suggests that when the host computer transmits data to merchant users, the merchant users can view the data that has been transmitted. The passage describes a single transaction in which data responsive to a request is transmitted from one computer to another computer. It is respectfully submitted this passage also does not teach updates to product information transmitted from a merchant computer to a host computer.

The passages of Suzuki regarding the ability to retrieve data from a database based on a search request and to record transaction data in a point of sale terminal at the time the sale is made have no relation to transmitting updates to product information. None of the passages from the Suzuki reference provide the asserted teaching with respect to transmission of updated product information. Therefore, the Suzuki reference cannot be combined with the Shavit, King, and Hill references to reject the claims.

Shavit Fails to Teach "Searching a Database to Select Updated Product Information Relevant to a Search Request" or "Continuous Updates to Product Information Relevant to a Search Request"

Passages of the Shavit reference are cited to support the assertions that the reference teaches 1) searching a database for updated product information relevant to a search request and 2) continuous updates to product information relevant to a search request. The portions of the Shavit reference that are asserted to be most relevant are in Col. 6, l. 51 to Col. 8, l. 15. It is respectfully submitted the cited passages simply do not support the assertions. None of the cited passages relate to new information

related to product information that was located using a search request and transmitted previously to the user computer.

Shavit teaches in Col. 6, line 51 to Col. 7, line 5 an "interactive market management system that allows concurrent sessions with multiple parties." The passage describes two modes of operation. In a first mode of operation, a user may connect directly to a computer system to perform various functions. The user may review information submitted by various parties to the system. The system may be used for its processing capabilities or it may be used as a "conduit" for communicating transactions to remote computing facilities.

In a second mode of operation, a "mailbox" service supports an exchange of communications between parties using periodic batch transfers. The mailbox service is provided for buyers and sellers that "don't want to make their own systems available continuously." The mailbox service further provides the appearance of an "interactive exchange" because many mail messages can be exchanged to facilitate the communication.

In this first passage, Shavit teaches nothing more than interactive and batch communications. Shavit suggests that many different types of transactions as well as a large volume of transactions may be processed using both modes of communication. Teachings related to types and volumes of transactions do not relate to updates to product information. Furthermore, there is no discussion of a search request in relation to any transaction.

Shavit teaches in Col. 7, lines 6-22 that the system can operate as a conduit to many other services such as airline reservation systems, banks, etc. In addition,

subscribers to the system can provide services to their own customers. Once again, Shavit teaches nothing more than many different types of transactions as well as a large volume of transactions. Such teachings do not relate to updates to product information.

In Col. 7, lines 23-46 Shavit explains how subscribers can provide services to their own customers. Local and remote computers may be involved in processing transactions and providing access to data. The last sentence of the passage states "[c]ommunication modes may be either interactive involving a continuous flow of transactions in both directions or batch involving periodic transfer of information or transactions in one direction at a time." The Final Office Action asserts that this last sentence relates to continuous updates to product information. However, the fact that transactions may flow continuously does not mean that transactions relate in any way to product information or more importantly, updated product information. There is no suggestion that any particular type of transaction occurs as part of the continuous flow of transactions or that the flow of transactions relates to any type of search request for product information.

The Final Office Action states that the next passage—Col. 7, lines 47-57—teaches flagging of events and that event flagging relates in some way to providing updated product information. However, the passage states only that a message may be displayed on a status line of a remote "alert terminal" when a flagged event occurs (such as an inventory shortage). It is respectfully submitted that a prior art teaching related to displaying a status line message to inform a user that an event has occurred does not teach updates to product information. It is impossible to discern from the passage what information about an event is communicated. The fact that a status line

message is displayed suggests that very little information is communicated other than an event has occurred. Furthermore, there is no suggestion that the status information that is communicated relates to product information for a particular search request. The cited examples of alerts related to inventory shortages, incoming calls, and requests for quotation suggest that the alerts are related to product orders rather than searches for product information.

The final passage (Col. 8, lines 5-15) that is cited states:

> [v]arious transactions may involve an interactive mode in which complete interactive service is provided with immediate confirmation based on a local system database. Interactive service may also be based upon a data base residing in another subscriber's remote computing center such that the interactive process requires retrieving [...] information on the remote data base. In addition, an interactive mode is provided in which the system computer translates and transmits transactions to and from a user subscriber's computer.

This passage simply teaches that the system communicates with local and remote databases to complete transactions. In some instances, the system will interact with a database at a remote computing center to complete a transaction. The passage does not have any teaching related to updating of databases or obtaining updates to product information and it does not have any teaching related to a particular search request used to obtain updated product information.

The teachings of Shavit with respect to a continuous flow of transactions, alert messages related to product orders, and interactive communications using local and remote databases fail to teach important aspects of the present invention. The combined teachings simply suggest that transactions may flow continuously, that alert messages regarding product orders may be transmitted to a status line of a remote terminal, and that interactive communications are supported. Furthermore, the

combination of Suzuki (which fails to teach product updates as asserted) and Shavit cannot be fairly said to teach the elements of the present invention related to updates to product information and continuous updates to product information. The references therefore, do not render the present invention as presently described in the claims an obvious variation of the prior art.

Hill Fails to Teach "Determining Whether Updates to Product Information from a First or Second Merchant Computer Have Been Received at a Network Host Computer"

The Final Office Action cites two passages from the Hill reference to support the argument that the Hill reference teaches determining whether updates to product information from a first or second merchant computer have been received. The first passage states:

> The method further includes the step of transmitting variable data related to the selected product from the main computer to the remote computer, and integrating constant data stored in the memory of the remote computer associated with the selected product with the variable data received from the main computer to provide product information related to the selected product including both constant and variable data.
>
> Hill, Col. 3, ll. 23-34.

The second passage states,

> The constant data updating step illustratively includes the steps of determining updated portions of the constant, data stored in the main computer that are different than the constant data stored in the remote computer, transmitting the updated portions of the constant data stored in the main computer from the main computer to the remote computer, and replacing portions of the constant data stored on the remote computer with the updated portions of constant data received from the main computer.
>
> Hill Col. 3, line 63 to Col. 4, line 5.

Hill teaches determining whether data at two computers is different and then transmitting data from one computer to the other computer if differences are detected. In other words, Hill teaches synchronizing data at two computers. A revision status is maintained at a main computer and at a remote computer and then compared to determine whether data at the remote computer is outdated with respect to data at the main computer. If the remote computer revision status is older than the main computer revision status, data from the main computer is transmitted to the remote computer. The comparison of the revision status and the transmission of data from the main computer to the remote computer occur only when the remote computer establishes a connection to the main computer. A connection from the remote computer to the main computer is established only when a user of the remote computer "selects a product" from a catalog stored at the remote computer. The connection occurs automatically when the user selects a product from the catalog at the remote computer.

It is respectfully submitted that determining updated portions of data at a main computer that are different than data stored at a remote computer is not the same as determining whether new or updated data has been received at a computer. In the present invention, communications between the customer computer and host computer and between the host computer and merchant computers do not occur in the manner taught by Hill. In the present invention, product data from merchant computers is received and stored at a network host computer. The merchant computers update the product data periodically by transmitting additional data irrespective of when customers request product information. If updated information is received at the host computer, it is communicated to the user's computer.

In the present invention, there are no data comparisons between the host and merchant computers as taught by Hill. Furthermore, data transmissions do not occur only when differences between data at the host and merchant computers are detected as taught by Hill. Instead, data is transmitted periodically from the merchant computers to the host computer using various types of network connections described in the patent specification.

In the present invention, the customer's computer communicates with the host computer by submitting a search request and a request for continuous updates to data responsive to the search request. When the host computer determines that new data from a merchant computer has been received, it locates data relevant to a customer's search parameters and forwards the new data to the customer's computer for display with the product information already presented. There are no data comparisons between the customer and host computers and data transmissions do not occur only when differences between data at the customer and host computers are detected. Using the approach of the present invention, a single search request from a customer computer may be used to retrieve merchant data for an initial product search and for subsequent searches of updated merchant data as it is received at the host computer.

It is respectfully submitted the Hill reference teaches away from the present invention by disclosing a system and method for "minimizing on-line time." Col. 2, ll. 35-43. Hill notes a number of disadvantages associated with systems that maintain open connections for communications. Hill specifically states,

> ... [t]he customer does not have the privilege of determining when to log on or when to log off the vendor's computer. The catalog system of the present invention automatically determines when it is necessary to log on to the vendor's computer to retrieve additional data. ... The customer's

> computer automatically connects itself to vendor's computer and automatically requests the needed information only after the desired product has been selected from data on the customer's computer. The customer's computer automatically logs off vendor's computer after the requested data is received.

Hill, Col. 2, ll. 44-57.

It is respectfully submitted that Hill's teachings with respect to minimizing a customer's on-line time are contrary to the present invention which allows a customer to receive continuous updates to product information displayed at the customer computer. Therefore, the Hill reference teaches away from the present invention. Furthermore, because Hill teaches minimizing a customer's on-line time and synchronizing data between computers only when the user at a remote computer selects a product, it would not be obvious to one of ordinary skill in the art to combine the Hill reference with any reference that teaches frequent exchanges of information between computers. The Shavit reference in particular has been relied upon because it teaches interactive communications and a "continuous flow of transactions." The teachings of Hill are inapposite to the teachings of Shavit. Therefore, it would not be obvious to one of ordinary skill in the art to combine the teachings of Hill with Shavit or the other references.

It is respectfully submitted that because the Hill reference does not provide the teachings asserted in the Final Office Action and because the Hill reference teaches away from the present invention, it cannot be combined with the Suzuki, Shavit, and King references to reject claims 11, 18, and 21.

VIII. CONCLUSION

For the foregoing reasons, it is submitted that the Examiner's rejections of claims 11, 18, and 21 were erroneous. It is further submitted that because the rejections of claims 11, 18, and 21, the rejections of claims 12-17 which dependent from claim 11, claims 19 and 20 which depend from claim 18, and claims 22-26 which depend from claim 21 are erroneous. Reversal of the decisions in the Final Office Action dated May 31, 2005 and allowance of the subject application is respectfully requested.

Respectfully submitted,

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CLAIMS APPENDIX – 37 C.F.R. § 41.37(C)(1)(VIII)

1-10. (Canceled)

11. (Previously Presented) A method for electronic shopping, comprising the steps of:

transmitting product information and updates to product information from a first merchant computer to a network host computer in accordance with a first type of network connectivity;

transmitting product information and updates to product information from a second merchant computer to said network host computer in accordance with a second type of network connectivity;

storing said product information from said first merchant computer and said second merchant computer in a database;

establishing a network connection between a customer computer and said network host computer in communication with said database, said customer computer adapted to display information received from said network host computer;

receiving at said network host computer a search request from said customer computer for product information from said database, said search request comprising at least one search parameter for searching said database and selecting product information from said database;

searching said database using said search parameter to select product information relevant to said search request;

assimilating said product information from said database located in accordance with said search request from said customer computer for display in one presentation at said customer computer distinguishing said product information from said first merchant computer from said product information from said second merchant computer;

transmitting from said network host computer to said customer computer said assimilated product information;

displaying said assimilated product information at said customer computer;

determining whether updates to product information from said first merchant computer or said second merchant computer have been received at said network host computer and stored in said database;

searching said database according to said search parameter to select updated product information relevant to said search request;

assimilating said updated product information from said database selected using said search parameter from said search request;

transmitting from said network host computer to said customer computer said updated assimilated product information ; and

displaying said updated assimilated product information at said customer computer.

12. (Canceled)

13. (Previously Presented) The method of claim 11, wherein said first type

of network connectivity and said second type of network connectivity is selected from the group of TCP/IP, SNA, or X.25 connectivity.

14. (Original) The method of claim 11, wherein the step of transmitting product information from said first merchant computer comprises the steps of:

transmitting said product information from said first merchant computer to a regional host computer; and

transmitting said product information from said regional host computer to said network host computer.

15. (Original) The method of claim 11, wherein the step of transmitting product information from said second merchant computer comprises the steps of:

transmitting said product information from said second merchant computer to a regional host computer; and

transmitting said product information from said regional host computer to said network host computer.

16. (Original) The method of claim 11 wherein the step of transmitting product information from a first merchant computer to a network host computer comprises the steps of:

transmitting product information from said first merchant computer to a switch; and

transmitting said product information from said switch to said

network host computer.

17. (Original) The method of claim 11 wherein the step of transmitting product information from a second merchant computer to a network host computer comprises the steps of:

transmitting product information from said second merchant computer to a switch; and

transmitting said product information from said switch to said network host computer.

18. (Previously Presented) A method for obtaining real time product information comprising the steps of:

establishing a first network connection between a first merchant computer and a network host computer;

transmitting product information from said first merchant computer to said network host computer;

establishing a second network connection between a second merchant computer and said network host computer;

transmitting product information from said second merchant computer to said network host computer;

storing said product information from said first merchant computer and said second merchant computer in a database;

establishing a connection between said network host computer and a customer computer;

receiving from said customer computer a search request for product information from said database, said search request comprising at least one search parameter for searching said database;

searching said database using said search parameter to select product information relevant to said search request;

assimilating said product information selected using said search parameter to distinguish said product information from said first merchant computer from said product information from said second merchant computer in response to said search request from said customer computer for product information from said database;

transmitting said assimilated product information to said customer computer;

displaying said assimilated product information at said customer computer; and

transmitting from said network host computer to said customer computer continuous updates to said assimilated product information at said customer computer wherein said continuous updates are assimilated and transmitted by said network host computer if

1) said customer computer has requested continuous updates to assimilated product information related to said search parameter in said search request for product information;

2) said network host computer determines said first merchant

computer or said second merchant computer has transmitted updates to said product information in said database related to said search parameter in said search request for product information.

19. (Previously Presented) The method of claim 18 wherein the step of establishing said first network connection and said second network connection comprises the step of establishing said first network connection and said second network connection in accordance with connectivity selected from the group of TCP/IP, SNA, or X.25 connectivity.

20. (Previously Presented) The method of claim 18 wherein the step of establishing said first network connection and said second network connection comprises the step of establishing said first network connection and said second network connection in accordance with a packet switch network, Ethernet, or modem connection.

21. (Previously Presented) A real time shopping system comprising:

product information from a plurality of merchant computers;

a plurality of network connections between said plurality of merchant computers and a host computer, said network connections for uploading said product information to said host computer;

a database at said host computer for storing said product information from said plurality of merchant computers;

a customer computer connected to said host computer for

transmitting to said host computer at least one search parameter for selecting product information in said database;

a computer program at said host computer for searching said database using said search parameter from said customer computer and assimilating said product information from said database relevant to said search parameter for display in one presentation distinguishing said product information from said first merchant computer from said product information from said second merchant computer;

wherein said host computer 1) transmits to said customer computer said assimilated product information from said database selected according to said search parameter and 2) transmits to said customer computer continuous updates to said assimilated product information from said database selected according to said search parameter if said customer computer has requested continuous updates to assimilated product information from said database selected according to said search parameter and said host computer determines that at least one of said plurality of merchant computers has transmitted to said database an update to product information in said database; and

a display at said customer computer for presenting said assimilated product information and said updates to said assimilated product information, said assimilated product information and said updates to said assimilated product information selected from said database using said

31 search parameter.

22. (Previously Presented) The system of claim 21 further comprising a regional host computer, said regional host computer adapted to facilitate said plurality of network connections between said plurality of merchant computers and said host computer.

23. (Original) The system of claim 22 wherein said product information is assimilated at said regional host computer.

24. (Previously Presented) The system of claim 21 further comprising a switch, said switch adapted to facilitate said plurality of network connections between said plurality of merchant computers and said host computer.

25. (Original) The system of claim 24 wherein said product information is assimilated at said switch.

26. (Original) The system of claim 21 further comprising an information management interface to simplify communication between said customer computer and said host computer.

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EVIDENCE APPENDIX

There is no evidence in this appeal to be included in this appendix.

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RELATED PROCEEDINGS APPENDIX

There are no related proceedings to the present appeal.